

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ERIC L. JEFFRIES,)	CASE NO. C-1-02-351
	:	
Plaintiff,)	JUDGE BECKWITH
	:	Magistrate Judge Hogan
v.)	
	:	
CENTRE LIFE INSURANCE CO.,)	
	:	
Defendant.)	

DECLARATION OF PLAINTIFF'S COUNSEL

Upon oath, the Declarant states as follows pursuant to the provisions of 28 U.S.C. §746:

1. My name is Michael A. Roberts. I am an attorney at law licensed to practice in the State of Ohio and am presently in good standing. I am a partner in the law firm of Graydon Head & Ritchey LLP. I serve as the Trial Attorney for the plaintiff in the above matter, Eric L. Jeffries.

2. The defendant was required to provide plaintiff with defendant's expert reports on August 30, 2003.

3. On that day, the defendant identified Dr. Kirk Frey as an expert and represented that Dr. Frey had the information needed to generate a report and that his report would be forthcoming shortly. (*See, Doc. 105*).

4. The defendant did not provide Dr. Frey's report to plaintiff until almost 3 months later, November 17, 2003.

5. Plaintiff then requested the opportunity to depose Dr. Frey.

6. On November 24, 2003, in an email, defendant's counsel stated: "I will call Dr. Frey tomorrow and try to get an agreeable date [for his requested deposition]." (*See, Attached*).

7. Plaintiff heard nothing further from defendant's counsel until December 4, 2003.

8. On that day, while counsel for the parties were in New York City for a deposition, plaintiff again asked defendant's counsel for a time to depose Dr. Frey. Defendant's counsel could not supply a date.

9. The cutoff for taking depositions of experts expired on December 5, 2003.

10. On Thursday, December 11, 2003, defendant finally responded to plaintiff's request for a date to depose Dr. Frey. Defendant stated that Dr. Frey cannot commit to a deposition date until his return to Michigan on or about December 15, 2003. (*See, Attached*).

11. Now, trial commitments in other matters prevent plaintiff's counsel from taking Dr. Frey's deposition prior to January 1, 2003.

I declare the foregoing to be true and correct to the best of my knowledge and belief, upon penalty of perjury.

Dated: December 12, 2003

/s Michael A. Roberts

Michael A. Roberts

CERTIFICATE OF SERVICE

The foregoing was delivered, via regular U. S. Mail to William R. Ellis, Esq., Wood & Lamping LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202, this 12th day of December, 2003.

/s Michael A. Roberts